

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

BENTON MILEY	§	
VS.	§	CIVIL ACTION NO. 1:22cv243
WARDEN, FCI BEAUMONT LOW	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Benton Miley, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court previously referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, for consideration pursuant to applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending that a motion for summary judgment filed by the respondent be granted and the petition denied pursuant to Federal Rule of Civil Procedure 56.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed objections to the Report and Recommendation. The Court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

Petitioner challenges a disciplinary conviction for possessing a substance that tested positive for methamphetamine. Petitioner contends: (1) he was denied the right to have the substance retested; (2) the investigating officer failed to follow prison policy; (3) he was not permitted to exhaust his administrative remedies; (4) he was denied a staff representative and (5) a confidential informant was improperly relied on by prison officials. The Magistrate Judge concluded petitioner did not have a right to independent drug testing and that the failure to comply with prison regulations did not violate petitioner's right to due process. The Magistrate Judge further concluded petitioner did not have a right to a staff representative and that the hearing officer did not rely on information from a confidential informant. Finally, the Magistrate Judge concluded that even if officials interfered with petitioner's attempt to exhaust his administrative remedies, this resulted in

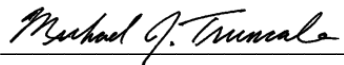
no prejudice.

The Court has carefully considered petitioner's objections. The record in this matter demonstrates petitioner was not denied any of the procedural protections set forth in *Wolff v. McDonnell*, 418 U.S. 539 (1974), and that the results of the field test of the substance constituted some evidence of petitioner's guilt. In addition, the authorities cited in the Report and Recommendation demonstrate petitioner did not have a constitutional right to have the substance retested.

ORDER

Accordingly, petitioner's objections [Dkt. 11] are OVERRULED. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge [Dkt. 9] is ADOPTED. The motion for summary judgment [Dkt. 7] is GRANTED. A final judgment will be entered in accordance with the recommendation of the Magistrate Judge.

**SIGNED this 2nd day of August, 2023.**

  
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Michael J. Truncala  
United States District Judge